

14.12.2020
Item No.22
Daily List
Court No.25
Krishnendu

W.P.A. No. 10316 of 2020
(VIA VIDEO CONFERENCE)

In re: Ranjit Kumar Das
- Versus-
The State of West Bengal & Ors

Mr. Ekramul Bari
Mr. Mansur Ali
Mrs. Tanuja Basak

For the Petitioner

Mr. Supriyo Chattopadhyay
Mr. Sabyasachi Mondal

For the State

Mr. Sarwar Jahan

For the School

The present writ petition has been preferred challenging, *inter alia*, an order dated 13th July, 2020 passed by the respondent no. 3.

Records reveal that a writ petition, being W.P. No.14669 (W) of 2009 was preferred by the petitioner claiming post graduate scale of pay. The same was disposed of by an order dated 5th March, 2010 directing the respondent no. 3 herein to grant higher scale of pay on the basis of the Master's degree of the writ petitioner with effect from 11th December, 1997. The said order was initially not complied with and as such the contempt

application was preferred and thereafter the respondent no. 3 issued a memo dated 6th July, 2011 approving the post graduate scale of pay in favour of the petitioner with effect from 11th December, 1997. In the year 2011 itself, a belated appeal was preferred by the school authorities against the order dated 5th March, 2010 passed in W.P. No. 14669 (W) of 2009, however, the same was dismissed by an order dated 2nd September, 2019. Thereafter, the respondent no. 3, in modification of the earlier order contained in the memo dated 6th July, 2011, informed the petitioner by a memo dated 13th July, 2020 that the post graduate scale of pay, which was accorded earlier, is restored with effect from 11th December, 1997 notionally.

According to Mr. Bari, learned advocate appearing for the petitioner, the respondent no. 3 having approved the post graduate scale of pay with effect from 11th December, 1997 could not have modified the said order and directed grant of notional benefits to the petitioner with effect from 11th December, 1997. The petitioner is entitled to the actual benefits of post graduate scale of pay on the

basis of the earlier order of the respondent no. 3 dated 6th July, 2011.

Mr. Chattopadhyay, learned advocate appearing for the State respondents submits that a consequential relief to arrears is normally required to be restricted for a period of three years. In support of such contention, he has placed reliance upon a judgment delivered in the case of **Union of India & Ors. - Vs - Tarsem Singh** , reported in **(2008) 8 SCC 648**.

Mr. Jahan, learned advocate appears on behalf of the school authorities.

Indisputably, by an order dated 5th March, 2010 in W.P. 14669 (W) of 2009 this Court directed the respondent no. 3 herein to grant higher scale of pay to the petitioner on the basis of the Master's degree with effect from 11th December, 1997. It was also directed that the payment of salary in arrears on account of the enhanced pay scale shall also be made positively within a period of six weeks. In compliance of the said order, approval was granted by the respondent no. 3 with effect from 11th December, 1997 but the actual benefits were not disbursed. The appeal preferred

against the order dated 5th March, 2010 was ultimately dismissed on 2nd September, 2019 and, accordingly, the petitioner became entitled to all arrears. After dismissal of the said appeal, the impugned order has been passed. The respondent no. 3 having accepted the order dated 5th March, 2010 and having issued the memo dated 6th July, 2011 approving the higher scale of pay in favour of the petitioner with effect from 11th December, 1997 could not have modified such decision and directed grant of benefits on notional basis with effect from 11th December, 1997 and actual financial benefits in the post graduate scale of pay with effect from the month of July, 2020. The judgment upon which reliance has been placed by Mr. Chattopadhyay is distinguishable on facts and has no manner of application in the present matter.

In view thereof, the impugned order dated 13th July, 2020 passed by the respondent no. 3 is set aside and the writ petition is allowed.

The consequential benefits on the basis of the earlier order of the respondent no. 3 dated 6th July, 2011 be disbursed in favour of

the petitioner, in accordance with law, within a period of twelve weeks from the date of communication of this order.

Needless to observe the school authorities shall draw up the arrear claim and send appropriate requisition to the respondent no. 3 within a month from the date of communication of this order.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.

(Tapabrata Chakraborty, J.)